

AN ACT

ENTITLED, An Act to clarify certain procedures for terminating or nonrenewing a teacher's contract.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 13-43-6.1 be amended to read as follows:

13-43-6.1. A teacher may be terminated, by the school board, at any time for just cause, including breach of contract, poor performance, incompetency, gross immorality, unprofessional conduct, insubordination, neglect of duty, or the violation of any policy or regulation of the school district. A school district may nonrenew a teacher who is in or beyond the fourth consecutive term of employment as a teacher with the school district pursuant to § 13-43-6.3 for just cause, including breach of contract, poor performance, incompetency, gross immorality, unprofessional conduct, insubordination, neglect of duty, or the violation of any policy or regulation of the school district.

Section 2. That § 13-43-6.2 be amended to read as follows:

13-43-6.2. If nonrenewal of a teacher is contemplated under § 13-43-6.1, the superintendent or chief executive officer shall give written notice of an intention to recommend nonrenewal to the teacher and the school board; a written statement of the reasons for the recommendation; access to the employment records of the teacher; the opportunity to the teacher for a hearing before the school board to present reasons in person or in writing why the nonrenewal should not occur; and the opportunity to be represented. The teacher shall request the hearing as provided in section 5 of this Act. The school board shall conduct the hearing not sooner than fourteen days, nor later than forty-five days, after receipt of the teacher's request for hearing. The parties may waive the time limitations provided for in this section.

Section 3. That chapter 13-43 be amended by adding thereto a NEW SECTION to read as follows:

If termination of a teacher is contemplated under § 13-43-6.1, written notice of a recommendation for termination shall be presented to the teacher and the school board by the superintendent or chief executive officer. The recommendation shall state the reason or reasons upon which the recommendation is based, and the effective date of the recommended termination:

In addition, the notice shall identify the following rights:

- (1) Access to the teacher's employment records;
- (2) Upon request, a hearing before the school board to present reasons in person or in writing why the termination should not occur; and
- (3) The right to be represented at the hearing at the teacher's cost.

The school board shall conduct the hearing, no sooner than fourteen days, and no later than forty-five days, after receipt of the written request for a hearing. The parties may waive these time limitations. If no hearing is requested by the teacher within the time and manner provided in section 5 of this Act, the right to a hearing shall be deemed waived by the teacher; and the school board shall thereafter act on the recommendation without further notice or hearing.

Section 4. That chapter 13-43 be amended by adding thereto a NEW SECTION to read as follows:

Delivery of any notification to the teacher pursuant to § 13-43-6.2 or section 3 of this Act shall be established by certified mail with return receipt signed by the teacher, personal delivery evidenced by a receipt signed by the teacher, or affidavit of personal service made by a person authorized to effect personal service.

Section 5. That chapter 13-43 be amended by adding thereto a NEW SECTION to read as follows:

Delivery of a written request for a hearing provided by § 13-43-6.2 or section 3 of this Act shall be established by certified mail with return receipt signed by the superintendent, chief executive

officer, or board member, or a person authorized to accept certified mail for the district, or personal delivery evidenced by a receipt signed by the superintendent, chief executive officer, or board member, or an affidavit of personal service upon the district made by a person authorized to effect personal service no later than fifteen days after receipt of the notice by the teacher.

Section 6. That § 13-43-6.3 be amended to read as follows:

13-43-6.3. Until a teacher is in or beyond the fourth consecutive term of employment as a teacher with the school district, a school board may or may not renew the teacher's contract. The superintendent or chief executive officer shall give written notice of nonrenewal by April fifteenth but is not required to give further process or a reason for nonrenewal.

After a teacher is in or beyond the fourth consecutive term of employment as a teacher with the school district, §§ 13-43-6.1 and 13-43-6.2 apply to any nonrenewal of the teacher's contract. On or before April fifteenth, the superintendent or chief executive officer shall notify the teacher and the school board in writing of the recommendation to not renew the teacher's contract.

Acceptance by the teacher of an offer from the district to enter into a new contract with the teacher shall be in the manner specified in the offer. Failure of the teacher to accept the offer in the manner specified constitutes the termination of the existing contract between the teacher and the district at the end of its term.

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I certify that the attached Act
originated in the

HOUSE as Bill No. 1169

Chief Clerk
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Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1169

File No. _____

Chapter No. _____

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Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor
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The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor
=====

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State